

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FILED
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AUG 22 2002
AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
DEPUTY

IN RE J & S BEHL, LCC,
Debtor

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J & S BEHL, LLC
Appellant

v.

M & M PARTNERSHIP,
Appellee

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CIVIL NO. AMD 02-2761

BANKRUPTCY CASE NO.
02-5-6074-JS

MEMORANDUM

The debtor operates a gas station and convenience store. After the debtor's landlord, Appellee M & M, successfully prosecuted a breach-of-lease action against the debtor in the District Court of Maryland for Anne Arundel County, obtaining a judgment of repossession which was affirmed on appeal to the Circuit Court for Anne Arundel County, the debtor instituted this Chapter 11 case.¹ The bankruptcy court found, after an evidentiary hearing, *inter alia*, that the petition was filed in bad faith and that the debtor had unclean hands. Accordingly, for these and other reasons, the bankruptcy court granted the motion to lift stay filed by appellee and, after a further hearing, refused to stay its order pending appeal.

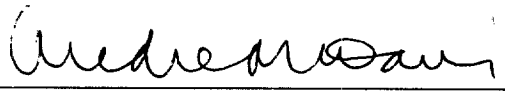
The debtor has timely appealed. It seeks a stay of the bankruptcy court's orders and has requested an emergency hearing. I have carefully reviewed the record, including the

¹The dispute between the parties surrounded debtor's compliance with environmental safety requirements in respect to the hazard presented by gasoline leakage from underground storage tanks. The judgment restoring possession of the premises to the landlord has now become final in every sense of the word as the Maryland Court of Appeals has denied the debtor's petition for discretionary review.

bankruptcy court's findings and conclusions, and I have fully considered the debtor's memorandum in support of its motion for a stay pending appeal and request for a hearing thereon, together with appellee's opposition thereto. Manifestly, the public interest will not be served by a stay, and the balance of hardships does not tip in favor of the debtor.

I am cognizant that the state courts may have issued certain orders, denying relief to the debtor in connection with requests filed by the debtor, in technical violation of the automatic stay, i.e., in advance of the action by the bankruptcy court lifting the stay. Nevertheless, the record reflects beyond a reasonable doubt that a stay is unwarranted. Moreover, oral argument will not aid the decisional process. Accordingly, the motion for stay and request for an emergency hearing shall be denied by separate order issued herewith.

Filed: August 22, 2002



ANDRE M. DAVIS
UNITED STATES DISTRICT JUDGE